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7 PHILIP W. HENDERSON,  
8 Plaintiff,  
9 v.  
10 U.S. DISTRICT COURT JUDGE  
11 CLAUDIA WILKEN,  
12 Defendant.

Case No.[16-cv-03972-JSC](#)

**ORDER OF DISMISSAL**

**INTRODUCTION**

13 Plaintiff, a California prisoner, filed this pro se civil rights complaint under *Bivens v. Six*  
14 *Unknown Federal Narcotics Agents*, 403 U.S. 388, 392-97 (1971) (finding implied right of action  
15 under Constitution against federal government officials), against a federal judge who denied his  
16 petition for a writ of habeas corpus.<sup>1</sup> Plaintiff's application to proceed *in forma pauperis* is  
17 granted in a separate order. For the reasons explained below, the complaint is dismissed.

**STANDARD OF REVIEW**

19 Federal courts must engage in a preliminary screening of cases in which prisoners seek  
20 redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. §  
21 1915A(a). The Court must identify cognizable claims or dismiss the complaint, or any portion of  
22 the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief  
23 may be granted," or "seeks monetary relief from a defendant who is immune from such relief." *Id.*  
24 § 1915A(b). Pro se pleadings must be liberally construed. *Balistreri v. Pacifica Police Dep't*, 901  
25 F.2d 696, 699 (9th Cir. 1990).

26 Federal Rule of Civil Procedure 8(a)(2) requires only "a short and plain statement of the

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28 <sup>1</sup> Plaintiff consented to the jurisdiction of a United States Magistrate Judge pursuant to 28 U.S.C. § 636(c). (ECF No. 6.)

1 claim showing that the pleader is entitled to relief.” “Specific facts are not necessary; the  
2 statement need only give the defendant fair notice of what the . . . claim is and the grounds upon  
3 which it rests.” *Erickson v. Pardus*, 127 S. Ct. 2197, 2200 (2007) (citations omitted). Although to  
4 state a claim a complaint “does not need detailed factual allegations, . . . a plaintiff’s obligation to  
5 provide the grounds of his entitle[ment] to relief requires more than labels and conclusions, and a  
6 formulaic recitation of the elements of a cause of action will not do. . . . Factual allegations must  
7 be enough to raise a right to relief above the speculative level.” *Bell Atlantic Corp. v. Twombly*,  
8 127 S. Ct. 1955, 1964-65 (2007) (citations omitted). A complaint must proffer “enough facts to  
9 state a claim for relief that is plausible on its face.” *Id.* at 1974.

## 10 **LEGAL CLAIMS**

11 Plaintiff alleges that United States District Court Judge Claudia Wilken violated his  
12 constitutional rights in denying his petition for a writ of habeas corpus. Judge Wilken denied  
13 Petitioner’s petition in 2007 in a decision that was subsequently affirmed on appeal. *See*  
14 *Henderson v. Newland*, No. C 98-4837 (N.D. Cal.) (ECF Nos. 54, 62). Plaintiff refers to Case No.  
15 “01-3691,”<sup>2</sup> which Judge Wilken closed after determining that it should be filed as a motion for  
16 reconsideration in Case No. C 98-4837 CW and granted, ordering the respondent to file an answer  
17 to the habeas corpus petition. C 98-4837 (ECF No. 17). In the instant petition, Petitioner seeks  
18 injunctive relief, specifically a hearing, a declaration that his federal constitutional rights were  
19 violated, and an order directing this Court to provide him with “a constitutionally valid  
20 proceeding.”

21 A federal judge is absolutely immune from civil liability for acts performed in her judicial  
22 capacity and, unlike the judicial immunity available to state judges, a federal judge’s immunity is  
23 not limited to immunity from damages, but extends to actions for declaratory, injunctive and other  
24 equitable relief. *See Moore v. Brewster*, 96 F.3d 1240, 1243 (9th Cir. 1996); *Mullis v. U.S.*  
25 *Bankruptcy Court*, 828 F.2d 1385, 1394 (9th Cir. 1987) (applying judicial immunity to actions  
26 under *Bivens*). This is because if a federal judge violates a litigant’s constitutional rights in a

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28 <sup>2</sup>Plaintiff also refers to Case No. 00-0806. That is the number assigned to his case in the Eastern  
District of California before it was transferred here.

1 proceeding pending in federal court, Congress has provided carefully structured procedures for  
2 taking appeals and for petitioning for extraordinary writs in Title 28 of the United States Code.  
3 *See id.* Plaintiff sues Judge Wilken for acts performed in her judicial capacity, specifically the  
4 rulings she made in Plaintiff's case. Judge Wilken is absolutely immune for liability for such acts.  
5 Accordingly, the complaint must be dismissed for failure to state a cognizable claim for relief.

6 **CONCLUSION**

7 For the foregoing reasons, this case is DISMISSED. The clerk shall enter judgment and  
8 close the file.

9 **IT IS SO ORDERED.**

10 Dated: November 2, 2016

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13 JACQUELINE SCOTT CORLEY  
14 United States Magistrate Judge  
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